

Nevada Office of the Attorney General
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Suzette Banasik and William Jablonski,

CASE NO. 2:09-cv-01242-LDG-GWF

Plaintiffs,

vs.

Clark County, Nevada; David Roger (in his
official capacity as District Attorney for Clark
County); Las Vegas Metropolitan Police
Department; Sheriff Douglas Gillespie
(individually and in his official capacity as
Sheriff of the Las Vegas Metropolitan Police
Department); Captain Charles Hank
(individually and in his official capacity as
Bureau Commander for the Convention
Center Area Command); Las Vegas
Metropolitan Police Department Officers
Contreras (Badge 9316), Goris (Badge
7520), Flannigan (Badge 3510), Anderson
(Badge 6196) (in their individual capacities);
and Catherine Cortez Masto (in her official
capacity as Attorney General of Nevada),

Defendants.

ANSWER TO FIRST AMENDED COMPLAINT

Defendant CATHERINE CORTEZ MASTO, Attorney General of the State of Nevada

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hereafter STATE¹), by and through counsel, Solicitor General C. Wayne Howle, makes this answer to Plaintiffs' First Amended Complaint as follows:

1. The STATE admits the allegations contained in paragraph 1 of plaintiffs' complaint.

2. The STATE admits that venue is proper in the District Court of Nevada, and admits that Defendants MASTO, ROGER, GILLESPIE and HANK are residents of the State of Nevada. The STATE is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 2 of plaintiffs' complaint, and therefore denies the allegations.

3. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of plaintiffs' complaint, and therefore denies the allegations.

4. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of plaintiffs' complaint, and therefore denies the allegations.

5. In response to paragraph 5 of plaintiffs' complaint, the STATE affirmatively asserts that the Clark County Commission is a political entity established pursuant to NEV. CONST. Art. 4, § 26, and Nev. Rev. Stat. Chapter 244. The STATE admits that the Clark County Commission makes policy and approves Clark County Codes as provided by law. The STATE is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 5 of plaintiffs' complaint, and therefore denies the allegations.

6. The STATE admits the allegations contained in paragraph 6 of the complaint.

7. In answer to paragraph 7, the STATE admits that the Las Vegas Metropolitan Police Department is a law enforcement agency, and that it enforces the Clark County Code

¹ *Rounds v. Oregon State Bd. of Higher Educ.*, 166 F.3d 1032, 1036 n.2. (9th Cir. 1999) (suits against state officials are in essence suits against the State).

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1 and Nevada statutes in unincorporated parts of Clark County. The STATE is without
2 knowledge or information sufficient to form a belief as to the truth of the remaining allegations
3 contained in paragraph 7 of plaintiffs' complaint, and therefore denies the allegations.

4 8. In answer to paragraph 8, the STATE admits that Douglas Gillespie is Metro's
5 Sheriff, admits that he has supervisory authority over Metro officers, and that he and his
6 officers have authority to enforce State and County laws. The STATE is without knowledge or
7 information sufficient to form a belief as to the truth of the remaining allegations contained in
8 paragraph 8 of plaintiffs' complaint, and therefore denies the allegations.

9 9. The STATE is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations contained in paragraph 9 of plaintiffs' complaint, and therefore
11 denies the allegations.

12 10. The STATE admits the allegations contained in paragraph 10 of plaintiffs'
13 complaint.

14 11. The STATE is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations contained in paragraph 11 of plaintiffs' complaint, and therefore
16 denies the allegations.

17 12. In answer to paragraph 12 of plaintiffs' complaint, the STATE affirmatively
18 asserts that the enumerated Code and statutory sections speak for themselves. The STATE
19 is without knowledge or information sufficient to form a belief as to the truth of the remaining
20 allegations contained in paragraph 12 of plaintiffs' complaint, and therefore denies the
21 allegations.

22 13. The STATE admits the allegations contained in paragraph 13 of plaintiffs'
23 complaint.

24 14. The STATE admits the allegations contained in paragraph 14 of plaintiffs'
25 complaint.

26 15. The STATE admits the allegations contained in paragraph 15 of plaintiffs'
27 complaint.

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1 16 The STATE is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in paragraph 1 of plaintiffs' complaint, and therefore
3 denies the allegations.

4 17. The STATE is without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in paragraph 17 of plaintiffs' complaint, and therefore
6 denies the allegations.

7 18. The STATE is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained in paragraph 18 of plaintiffs' complaint, and therefore
9 denies the allegations.

10 19. The STATE is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in paragraph 19 of plaintiffs' complaint, and therefore
12 denies the allegations.

13 20. The STATE is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in paragraph 20 of plaintiffs' complaint, and therefore
15 denies the allegations.

16 21. The STATE is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in paragraph 21 of plaintiffs' complaint, and therefore
18 denies the allegations.

19 22. The STATE is without knowledge or information sufficient to form a belief as to
20 the truth of the allegations contained in paragraph 22 of plaintiffs' complaint, and therefore
21 denies the allegations.

22 23. The STATE is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in paragraph 23 of plaintiffs' complaint, and therefore
24 denies the allegations.

25 24. The STATE is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in paragraph 24 of plaintiffs' complaint, and therefore
27 denies the allegations.
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1 25. The STATE is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in paragraph 25 of plaintiffs' complaint, and therefore
3 denies the allegations.

4 26. The STATE is without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in paragraph 26 of plaintiffs' complaint, and therefore
6 denies the allegations.

7 27. The STATE is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained in paragraph 27 of plaintiffs' complaint, and therefore
9 denies the allegations.

10 28. The STATE is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in paragraph 28 of plaintiffs' complaint, and therefore
12 denies the allegations.

13 29. The STATE is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in paragraph 29 of plaintiffs' complaint, and therefore
15 denies the allegations.

16 30. The STATE is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in paragraph 30 of plaintiffs' complaint, and therefore
18 denies the allegations.

19 31. The STATE is without knowledge or information sufficient to form a belief as to
20 the truth of the allegations contained in paragraph 31 of plaintiffs' complaint, and therefore
21 denies the allegations.

22 32. The STATE is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in paragraph 32 of plaintiffs' complaint, and therefore
24 denies the allegations.

25 33. The STATE is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in paragraph 33 of plaintiffs' complaint, and therefore
27 denies the allegations.

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1 34. The STATE is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in paragraph 34 of plaintiffs' complaint, and therefore
3 denies the allegations.

4 35. The STATE is without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in paragraph 35 of plaintiffs' complaint, and therefore
6 denies the allegations.

7 36. The STATE is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained in paragraph 36 of plaintiffs' complaint, and therefore
9 denies the allegations.

10 37. The STATE is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in paragraph 37 of plaintiffs' complaint, and therefore
12 denies the allegations.

13 38. The STATE is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in paragraph 38 of plaintiffs' complaint, and therefore
15 denies the allegations.

16 39. The STATE is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in paragraph 28 of plaintiffs' complaint, and therefore
18 denies the allegations.

19 40. The STATE is without knowledge or information sufficient to form a belief as to
20 the truth of the allegations contained in paragraph 40 of plaintiffs' complaint, and therefore
21 denies the allegations.

22 41. The STATE is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in paragraph 41 of plaintiffs' complaint, and therefore
24 denies the allegations.

25 42. The STATE is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in paragraph 42 of plaintiffs' complaint, and therefore
27 denies the allegations.
28

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1 43. The STATE is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in paragraph 43 of plaintiffs' complaint, and therefore
3 denies the allegations.

4 44. The STATE is without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in paragraph 44 of plaintiffs' complaint, and therefore
6 denies the allegations.

7 45. The STATE is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained in paragraph 45 of plaintiffs' complaint, and therefore
9 denies the allegations.

10 46. The STATE is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in paragraph 46 of plaintiffs' complaint, and therefore
12 denies the allegations.

13 47. The STATE is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in paragraph 47 of plaintiffs' complaint, and therefore
15 denies the allegations.

16 48. The STATE is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in paragraph 48 of plaintiffs' complaint, and therefore
18 denies the allegations.

19 49. The STATE is without knowledge or information sufficient to form a belief as to
20 the truth of the allegations contained in paragraph 49 of plaintiffs' complaint, and therefore
21 denies the allegations.

22 50. The STATE is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in paragraph 50 of plaintiffs' complaint, and therefore
24 denies the allegations.

25 51. The STATE is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in paragraph 51 of plaintiffs' complaint, and therefore
27 denies the allegations.
28

1 52. The STATE is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in paragraph 52 of plaintiffs' complaint, and therefore
3 denies the allegations.

4 53. In answer to paragraph 53, the STATE asserts that Nev. Rev. Stat. 202.450, in
5 all its parts, speaks for itself and requires no answer. The STATE is without knowledge or
6 information sufficient to form a belief as to the truth of the remaining allegations contained in
7 paragraph 53 of plaintiffs' complaint, and therefore denies the allegations.

8 54. The STATE is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in paragraph 54 of plaintiffs' complaint, and therefore
10 denies the allegations.

11 55. The STATE is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations contained in paragraph 55 of plaintiffs' complaint, and therefore
13 denies the allegations.

14 **V. ANSWERING FIRST CAUSE OF ACTION**

15 56. The STATE reiterates and incorporates by reference each and every answer
16 contained in the preceding paragraphs as set forth fully above.

17 57. The STATE is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations contained in paragraph 57 of plaintiffs' complaint, and therefore
19 denies the allegations.

20 58. The STATE is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations contained in paragraph 58 of plaintiffs' complaint, and therefore
22 denies the allegations.

23 59. The STATE is without knowledge or information sufficient to form a belief as to
24 the truth of the allegations contained in paragraph 59 of plaintiffs' complaint, and therefore
25 denies the allegations.

26 60. The STATE is without knowledge or information sufficient to form a belief as to
27 the truth of the allegations contained in paragraph 60 of plaintiffs' complaint, and therefore
28

1 denies the allegations.

2 61. The STATE is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained in paragraph 61 of plaintiffs' complaint, and therefore
4 denies the allegations.

5 62. The STATE is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations contained in paragraph 62 of plaintiffs' complaint, and therefore
7 denies the allegations.

8 63. The STATE is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in paragraph 63 of plaintiffs' complaint, and therefore
10 denies the allegations.

11 64. In answer to paragraph 64, the STATE denies that Nev. Rev. Stat. 202.450(3) is
12 facially unconstitutional. The STATE is without knowledge or information sufficient to form a
13 belief as to the truth of the remaining allegations contained in paragraph 64 of plaintiffs'
14 complaint, and therefore denies the allegations.

15 65. The STATE is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations contained in paragraph 65 of plaintiffs' complaint, and therefore
17 denies the allegations.

18 66. The STATE is without knowledge or information sufficient to form a belief as to
19 the truth of the allegations contained in paragraph 66 of plaintiffs' complaint, and therefore
20 denies the allegations.

21 **VI. ANSWERING SECOND CAUSE OF ACTION**

22 67. The STATE reiterates and incorporates by reference each and every answer
23 contained in the preceding paragraphs as set forth fully above.

24 68. The STATE is without knowledge or information sufficient to form a belief as to
25 the truth of the allegations contained in paragraph 68 of plaintiffs' complaint, and therefore
26 denies the allegations.

27 69. The STATE is without knowledge or information sufficient to form a belief as to
28

1 the truth of the allegations contained in paragraph 69 of plaintiffs' complaint, and therefore
2 denies the allegations.

3 70. The STATE is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations contained in paragraph 70 of plaintiffs' complaint, and therefore
5 denies the allegations.

6 71. The STATE is without knowledge or information sufficient to form a belief as to
7 the truth of the allegations contained in paragraph 71 of plaintiffs' complaint, and therefore
8 denies the allegations.

9 72. The STATE is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations contained in paragraph 72 of plaintiffs' complaint, and therefore
11 denies the allegations.

12 73. The STATE is without knowledge or information sufficient to form a belief as to
13 the truth of the allegations contained in paragraph 73 of plaintiffs' complaint, and therefore
14 denies the allegations.

15 74. The STATE is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations contained in paragraph 74 of plaintiffs' complaint, and therefore
17 denies the allegations.

18 75. In answer to paragraph 75, the STATE denies that Nev. Rev. Stat. 202.450(3) is
19 facially unconstitutional. The STATE is without knowledge or information sufficient to form a
20 belief as to the truth of the remaining allegations contained in paragraph 75 of plaintiffs'
21 complaint, and therefore denies the allegations.

22 76. The STATE is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in paragraph 76 of plaintiffs' complaint, and therefore
24 denies the allegations.

25 77. The STATE is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in paragraph 77 of plaintiffs' complaint, and therefore
27 denies the allegations.
28

VII. ANSWERING THIRD CAUSE OF ACTION

78. The STATE reiterates and incorporates by reference each and every answer contained in the preceding paragraphs as set forth fully above.

79. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 79 of plaintiffs' complaint, and therefore denies the allegations.

80. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 80 of plaintiffs' complaint, and therefore denies the allegations.

81. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 81 of plaintiffs' complaint, and therefore denies the allegations.

82. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 82 of plaintiffs' complaint, and therefore denies the allegations.

83. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 83 of plaintiffs' complaint, and therefore denies the allegations.

84. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 84 of plaintiffs' complaint, and therefore denies the allegations.

85. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 85 of plaintiffs' complaint, and therefore denies the allegations.

86. In answer to paragraph 86, the STATE denies that Nev. Rev. Stat. 202.450(3) is facially unconstitutional. The STATE is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 86 of plaintiffs'

1 complaint, and therefore denies the allegations.

2 87. The STATE is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained in paragraph 87 of plaintiffs' complaint, and therefore
4 denies the allegations.

5 **VIII. ANSWERING FOURTH CAUSE OF ACTION**

6 88. The STATE reiterates and incorporates by reference each and every answer
7 contained in the preceding paragraphs as set forth fully above.

8 89. The STATE is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in paragraph 89 of plaintiffs' complaint, and therefore
10 denies the allegations.

11 90. The STATE is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations contained in paragraph 90 of plaintiffs' complaint, and therefore
13 denies the allegations.

14 91. The STATE is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations contained in paragraph 91 of plaintiffs' complaint, and therefore
16 denies the allegations.

17 92. The STATE is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations contained in paragraph 92 of plaintiffs' complaint, and therefore
19 denies the allegations.

20 93. The STATE is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations contained in paragraph 93 of plaintiffs' complaint, and therefore
22 denies the allegations.

23 94. The STATE is without knowledge or information sufficient to form a belief as to
24 the truth of the allegations contained in paragraph 94 of plaintiffs' complaint, and therefore
25 denies the allegations.

26 95. The STATE is without knowledge or information sufficient to form a belief as to
27 the truth of the allegations contained in paragraph 95 of plaintiffs' complaint, and therefore
28

1 denies the allegations.

2 96. In answer to paragraph 96, the STATE denies that Nev. Rev. Stat. 202.450(3) is
3 facially unconstitutional. The STATE is without knowledge or information sufficient to form a
4 belief as to the truth of the remaining allegations contained in paragraph 96 of plaintiffs'
5 complaint, and therefore denies the allegations.

6 97. The STATE is without knowledge or information sufficient to form a belief as to
7 the truth of the allegations contained in paragraph 97 of plaintiffs' complaint, and therefore
8 denies the allegations.

9 **IX. ANSWERING FIFTH CAUSE OF ACTION**

10 98. The STATE reiterates and incorporates by reference each and every answer
11 contained in the preceding paragraphs as set forth fully above.

12 99. The STATE is without knowledge or information sufficient to form a belief as to
13 the truth of the allegations contained in paragraph 99 of plaintiffs' complaint, and therefore
14 denies the allegations.

15 100. The STATE is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations contained in paragraph 100 of plaintiffs' complaint, and therefore
17 denies the allegations.

18 101. The STATE is without knowledge or information sufficient to form a belief as to
19 the truth of the allegations contained in paragraph 101 of plaintiffs' complaint, and therefore
20 denies the allegations.

21 102. The STATE is without knowledge or information sufficient to form a belief as to
22 the truth of the allegations contained in paragraph 102 of plaintiffs' complaint, and therefore
23 denies the allegations.

24 103. The STATE is without knowledge or information sufficient to form a belief as to
25 the truth of the allegations contained in paragraph 103 of plaintiffs' complaint, and therefore
26 denies the allegations.

27 104. The STATE is without knowledge or information sufficient to form a belief as to
28

1 the truth of the allegations contained in paragraph 104 of plaintiffs' complaint, and therefore
2 denies the allegations.

3 105. The STATE is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations contained in paragraph 105 of plaintiffs' complaint, and therefore
5 denies the allegations.

6 106. In answer to paragraph 106, the STATE denies that Nev. Rev. Stat. 202.450(3)
7 is facially unconstitutional. The STATE is without knowledge or information sufficient to form a
8 belief as to the truth of the remaining allegations contained in paragraph 106 of plaintiffs'
9 complaint, and therefore denies the allegations.

10 107. The STATE is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in paragraph 107 of plaintiffs' complaint, and therefore
12 denies the allegations.

13 **X. ANSWERING SIXTH CAUSE OF ACTION**

14 108. The STATE reiterates and incorporates by reference each and every answer
15 contained in the preceding paragraphs as set forth fully above.

16 109. The STATE is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in paragraph 105 of plaintiffs' complaint, and therefore
18 denies the allegations.

19 110. The STATE is without knowledge or information sufficient to form a belief as to
20 the truth of the allegations contained in paragraph 110 of plaintiffs' complaint, and therefore
21 denies the allegations.

22 111. The STATE is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in paragraph 111 of plaintiffs' complaint, and therefore
24 denies the allegations.

25 112. The STATE is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in paragraph 112 of plaintiffs' complaint, and therefore
27 denies the allegations.
28

113. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 113 of plaintiffs' complaint, and therefore denies the allegations.

114. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 114 of plaintiffs' complaint, and therefore denies the allegations.

115. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 115 of plaintiffs' complaint, and therefore denies the allegations.

116. In answer to paragraph 116, the STATE denies that Nev. Rev. Stat. 202.450(3) is facially unconstitutional. The STATE is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 116 of plaintiffs' complaint, and therefore denies the allegations.

117. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 117 of plaintiffs' complaint, and therefore denies the allegations.

XI. ANSWERING SEVENTH CAUSE OF ACTION

118. The STATE reiterates and incorporates by reference each and every answer contained in the preceding paragraphs as set forth fully above.

119. In answer to paragraph 119, the STATE asserts that Nev. Rev. Stat. 207.030 and Clark County Code 12.32.020(d), in all their parts, speaks for themselves and requires no answer. The STATE is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 119 of plaintiffs' complaint, and therefore denies the allegations.

XII. ANSWERING EIGHTH CAUSE OF ACTION

120. The STATE reiterates and incorporates by reference each and every answer contained in the preceding paragraphs as set forth fully above.

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121. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 121 of plaintiffs' complaint, and therefore denies the allegations.

122. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 122 of plaintiffs' complaint, and therefore denies the allegations.

123. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 123 of plaintiffs' complaint, and therefore denies the allegations.

124. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 124 of plaintiffs' complaint, and therefore denies the allegations.

125. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 125 of plaintiffs' complaint, and therefore denies the allegations.

126. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 126 of plaintiffs' complaint, and therefore denies the allegations.

127. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 127 of plaintiffs' complaint, and therefore denies the allegations.

128. In answer to paragraph 128, the STATE denies that Nev. Rev. Stat. 202.450(3) is facially unconstitutional. The STATE is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 128 of plaintiffs' complaint, and therefore denies the allegations.

129. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 129 of plaintiffs' complaint, and therefore

1 denies the allegations.

2 130. The STATE is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained in paragraph 130 of plaintiffs' complaint, and therefore
4 denies the allegations.

5 **XIII. ANSWERING NINTH CAUSE OF ACTION**

6 131. The STATE reiterates and incorporates by reference each and every answer
7 contained in the preceding paragraphs as set forth fully above.

8 132. The STATE is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in paragraph 132 of plaintiffs' complaint, and therefore
10 denies the allegations.

11 133. The STATE is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations contained in paragraph 133 of plaintiffs' complaint, and therefore
13 denies the allegations.

14 134. The STATE is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations contained in paragraph 134 of plaintiffs' complaint, and therefore
16 denies the allegations.

17 135. The STATE is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations contained in paragraph 135 of plaintiffs' complaint, and therefore
19 denies the allegations.

20 136. The STATE is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations contained in paragraph 136 of plaintiffs' complaint, and therefore
22 denies the allegations.

23 137. The STATE is without knowledge or information sufficient to form a belief as to
24 the truth of the allegations contained in paragraph 137 of plaintiffs' complaint, and therefore
25 denies the allegations.

26 138. The STATE is without knowledge or information sufficient to form a belief as to
27 the truth of the allegations contained in paragraph 138 of plaintiffs' complaint, and therefore
28

denies the allegations.

139. In answer to paragraph 139, the STATE denies that Nev. Rev. Stat. 202.450(3) is facially unconstitutional. The STATE is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 128 of plaintiffs' complaint, and therefore denies the allegations.

140. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 140 of plaintiffs' complaint, and therefore denies the allegations.

141. The STATE is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 141 of plaintiffs' complaint, and therefore denies the allegations.

FIRST AFFIRMATIVE DEFENSE

For its first affirmative defense, defendant asserts that the State of Nevada and its officials in their official capacities are immune from suit in this court under the Eleventh Amendment of the United States Constitution.

SECOND AFFIRMATIVE DEFENSE

For its second affirmative defense, defendant asserts the immunity of the state set forth in chapter 41 of the Nevada Revised Statutes.

THIRD AFFIRMATIVE DEFENSE

For its third affirmative defense, defendant asserts that plaintiffs' complaint on file herein fails to state a claim against defendant upon which relief can be granted.

WHEREFORE, defendant prays for the following:

1. The complaint be dismissed with prejudice;
2. Judgment be rendered in favor of defendant and against plaintiffs;
3. Plaintiffs take nothing by way of their complaint;
4. Defendants be awarded costs of suit incurred herein, including a reasonable attorney's fee;

1 5. Defendants be awarded such other and further relief as the Court may deem just
2 and proper.

3 Respectfully submitted this 14th day of September, 2009.

4 CATHERINE CORTEZ MASTO

5 Attorney General

6 By: /s/ C. Wayne Howle

7 C. Wayne Howle

8 Solicitor General

9 Nevada State Bar #3443

10 100 North Carson Street

11 Carson City, Nevada 89701

12 (775) 684-1227

13 (775) 684-1108 (f)

14 Attorneys for Defendant

15 CATHERINE CORTEZ MASTO

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CERTIFICATE OF SERVICE

I hereby certify that this Answer to First Amended Complaint was filed electronically with the United States District Court on the 14th day of September 2009. Electronic Service of the foregoing document shall be made in accordance with the civil docket service list as follows:

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/s/ Vicki Beavers
Vicki Beavers